

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 14-CR-3209-JB
	)	
BENTLEY STREETT,	)	
	)	
Defendant.	)	

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**Second Unopposed Motion to Extend Time to File Findings of Fact and Conclusions of Law  
Nunc Pro Tunc**

Defendant Bentley Streett, by undersigned counsel Harry Zimmerman, respectfully request that this court grant the defense an additional day until November 1, 2018 to file the motion to dismiss findings of fact and conclusions of law and additional two days until November 2 to file motion to suppress findings of fact and conclusions of law for the hearings conducted on September 10 and September 11, 2018. Mr. Streett asserts the following reasons.

1. Mr. Streett is charged in a 12-count indictment. (Doc. No. 33). Mr. Streett faces serious consequences if convicted. The five counts at issue in the motion to dismiss alone carry a mandatory minimum prison term of 15 years.
2. On April 19, 2018, this Court appointed undersigned as co-counsel for Mr. Streett to handle motions in this matter. (Doc. No. 121). Counsel is a sole practitioner.
3. On September 24, 2018, following consultation between the Government and the Defense, the Court filed Scheduling Order No. 6 which called for the parties to file their findings of fact and conclusions of law from the evidentiary hearings in this matter on October 26, 2018. (Doc. No. 157).

4. On September 28, 2018, the transcripts from the two days of motion hearings were filed with this Court. (Doc. Nos. 158, 159).
5. Since that time, the undersigned been working steadily and diligently on this matter to aid the Court in the determination of these significant issues. But as a sole practitioner, counsel has had to address unanticipated matters related to motions in several other cases that had also been set for trial. (District of New Mexico case numbers: 16-CR-3213, 18-CR-931, 18-CR-2099); and matters related to sentencing in two other cases. (District of New Mexico case numbers 17-CR-3562 and 17-CR-2561).
6. The Court had granted the first unopposed continuance in this matter, extending the time to October 31, 2018 for both sets of findings of fact and conclusions of law. (Doc. No. 162).
7. On October 25 and 26, 2018, after the first extension was requested, counsel was engaged in negotiations with the New Mexico Attorney General for production of grand jury materials related to the motion to suppress in this matter, resulting in my preparation and filing of the motion of for production and protective order, with the proposed, lengthy order attached. Precious time was lost in working with the Attorney General in that matter and preparing the necessary documents. The Court ordered the production and protective order. (Doc. No. 163).
8. Counsel suffers from chronic back pain related to a previous surgery. The additional hours spent working over this past weekend caused an aggravation of that back pain, slowing progress in this matter and further resulting in a sleepless night on Tuesday, October 30, 2018, the day before the documents were due to be filed. Consequently, little work could be accomplished the following day, October 31, 2018, when the documents should have been

filed.

9. On October 31, 2018, counsel had been in contact with Assistant United States Attorney Sarah Mease. After explaining the circumstances, Ms. Mease agreed not to oppose an extension for the motion to suppress findings and conclusions until Friday, November 2, 2018. Counsel had hoped to file the motion to dismiss findings by yesterday's due date, but as noted above, the pain and lack of sleep prevented their completion.
10. Last night, counsel contacted Ms. Mease to explain the circumstance. We agreed that both parties would file the motion to dismiss findings and conclusions today, November 1, 2018, to maintain the schedule calling for a simultaneous filing, should the Court concur. We further agreed, again pending the Court's order, to file the motion to suppress findings and conclusions by tomorrow, November 2, 2018.
11. Because of the issues cited above with pain and sleep deprivation, the undersigned was unable to prepare this nunc pro tunc request until this morning.
12. The Government, per Assistant United States Attorney Sarah Mease, is unopposed to this motion.

For the foregoing reasons, Mr. Streett requests permission to extend the time to file his motion to dismiss findings of fact and conclusions of law today, November 1, 2018, and the motion to suppress findings and conclusions on November 2, 2018.

Dated: November 1, 2018

Respectfully submitted,

/s/ Harry Zimmerman  
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**Certificate of Service**

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court on November 1, 2018, using the CM/ECF system.

/s/ Harry Zimmerman  
Harry Zimmerman